

立法會

Legislative Council

LC Paper No. CB(4)931/13-14

(These minutes have been
seen by the Administration)

Ref : CB4/PL/PS

Panel on Public Service

**Minutes of meeting held on
Monday, 19 May 2014, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Members present : Hon Mrs Regina IP LAU Suk-ye, GBS, JP (Chairman)
Hon POON Siu-ping, BBS, MH (Deputy Chairman)
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon LEUNG Ka-lau
Hon Claudia MO
Hon LEUNG Che-cheung, BBS, MH, JP
Hon KWOK Wai-keung
Hon Martin LIAO Cheung-kong, JP
Hon TANG Ka-piu
Hon Tony TSE Wai-chuen

Members absent : Hon LEE Cheuk-yan
Hon LEUNG Kwok-hung
Hon SIN Chung-kai, SBS, JP
Hon IP Kin-yuen

**Public Officers
attending** : **Agenda item IV**

Mr Paul TANG, JP
Secretary for the Civil Service

Mr Raymond H C WONG, JP
Permanent Secretary for the Civil Service

Mr Peter CHAN, JP
Director of General Grades
Civil Service Bureau

Agenda item V

Mr Paul TANG, JP
Secretary for the Civil Service

Mr Raymond H C WONG, JP
Permanent Secretary for the Civil Service

Ms May CHAN
Deputy Secretary for the Civil Service 2

Mr Charles HUI
Assistant Commissioner (Labour Relations)
Labour Department

Clerk in attendance : Ms Anita SIT
Chief Council Secretary (4)1

Staff in attendance : Ms Shirley CHAN
Senior Council Secretary (4)1

Ms Angela CHU
Council Secretary (4)1

Ms Prima LAI
Legislative Assistant (4)1

Action

I. Confirmation of minutes

LC Paper No. CB(4)665/13-14 -- Minutes of meeting
held on 17 March 2014

The minutes of the meeting held on 17 March 2014 were confirmed.

II. Information paper issued since the last meeting

LC Paper No. CB(4)654/13-14(01) -- Submission on meal break arrangement for Ambulanceman Grade in the Fire Services Department from the Hong Kong Fire Services Department Ambulancemen's Union (Chinese version only) (Restricted to members only)

2. Members noted the above submission from the Hong Kong Fire Services Department Ambulancemen's Union requesting the Panel to discuss the meal break arrangement for Ambulanceman Grade in the Fire Services Department. The Chairman informed members that the Administration had been requested to provide a written response on the submission. She consulted members if there was a need to discuss the subject at a future Panel meeting. Mr KWOK Wai-keung suggested and members agreed that the subject should be included in the Panel's "List of outstanding items for discussion".

(Post-meeting note: The Administration's response on the issue raised in the submission was issued to members on 6 June 2014 vide LC Paper No. CB(4)775/13-14.)

III. Date of next meeting and items for discussion

LC Paper No. CB(4)661/13-14(01) -- List of outstanding items for discussion

LC Paper No. CB(4)661/13-14(02) -- List of follow-up actions

Regular meeting on 23 June 2014

3. The Chairman drew members' attention that at the request of the Administration, the next regular meeting had been re-scheduled for

Monday, 23 June 2014 at 4:30 pm. Members agreed to discuss the following two items proposed by the Administration at the meeting –

- (a) 2014-2015 Civil Service Pay Adjustment; and
- (b) Employment of persons with disabilities in the civil service.

4. The Chairman enquired about the schedule of the 2014-2015 Civil Service Pay Adjustment. The Secretary for the Civil Service ("SCS") said that it was a practice that the pay adjustment would take effect retrospectively from 1 April of the year, and it was the Administration's intention to submit the relevant funding proposal to the Finance Committee of the Legislative Council in July for approval.

5. Mr TANG Ka-piu asked about the consultation with the staff sides on the pay offers made by the Chief Executive-in-Council. SCS advised that the Administration had maintained a close dialogue with the staff sides and would seek their views on the pay offers once available.

Regular meeting on 21 July 2014

6. The Chairman said that at the meeting on 25 April 2014, the Panel agreed that a meeting should be held before August 2014 to receive views from civil service unions and other interested parties on the consultation on extension of the service of civil servants. Members agreed that the item be discussed at the regular meeting on 21 July 2014, and the meeting would start early at 9:30 am so as to allow sufficient time for receiving views and discussion.

IV. Use of agency workers

LC Paper No. CB(4)661/13-14(03) -- Administration's paper on use of agency workers

LC Paper No. CB(4)661/13-14(04) -- Paper on use of agency workers prepared by the Legislative Council Secretariat (updated background brief)

LC Paper No. CB(4)676/13-14(01) -- Hon LEE Cheuk-yan's letter on the use of agency workers dated 14 May 2014 (Chinese version only)

LC Paper No. CB(4)676/13-14(02) -- Judgment of the court case referred to in the letter from Hon LEE Cheuk-yan (Chinese version only)

7. The Chairman drew members' attention to the response from the Civil Service Bureau ("CSB") to the concerns raised in Mr LEE Cheuk-yan's letter dated 14 May 2014 on the use of agency workers. CSB's response was tabled at the meeting.

(Post-meeting note: The CSB's response was issued to members on 20 May 2014 after the meeting via LC Paper No. CB(4)680/13-14.)

8. SCS briefed members on the salient points of the Administration's paper on the use of agency workers by bureaux/departments ("B/Ds"). He said that agency workers generally referred to the manpower supplied by employment agencies under service contracts with B/Ds concerned. They worked under the direct supervision of the procuring B/Ds but they did not have a contractual employment relationship with the B/Ds concerned.

Measures to deter abusive use of agency workers

9. Mr KWOK Wai-keung welcomed that the number of agency workers engaged by B/Ds had been on the decline over the past years. Noting that the use of agency workers should normally last for no more than nine months and that approval from CSB would need to be sought for extension of an existing contract by more than six months, Mr KWOK expressed concern that some B/Ds might abuse the system by repeatedly renewing contracts of nine months or a shorter duration.

10. SCS advised that agency workers were engaged to meet short-term, urgent or unforeseen service needs; to fill short-term manpower gap; to provide manpower to deliver service the mode of which would be changed shortly; or to meet service needs which entailed

irregular work pattern. To ensure proper use of the agency workers, CSB had formulated a set of guidelines as set out in paragraphs 4 to 9 of the Administration's paper for compliance by B/Ds.

11. The Director of General Grades ("DGG") affirmed that B/Ds were well aware that renewal of an existing contract where the aggregated period of service under the existing and renewed contract was expected to exceed 15 months should be subject to CSB's approval. CSB would carefully consider each application to ensure that approval would only be granted for fully justifiable cases. In considering such applications, CSB would pay particular attention to the accumulated period of using agency workers. In the past year, CSB had not received any application for extension of an existing contract beyond 15 months.

12. Mr Tony TSE noted that the agency workers working in the Hong Kong Housing Authority ("HA") were not included in the figures set out in the Annex to the Administration's paper. He understood that HA had engaged a large number of agency workers. Many of them were building professionals who had been providing services to HA for a long period of time. He was concerned that HA might have abused the use of agency workers and urged the Administration to seriously look into the matter.

13. SCS confirmed that the agency workers working in HA had not been included in the Annex to the Administration's paper. Since HA was financially autonomous, it had autonomy and flexibility in deploying its resources in accordance with its operational needs and to meet its public housing production targets. As far as he knew, HA had its own guidelines governing the use of the personnel and HA currently engaged about 800 number of such personnel. Nevertheless, SCS undertook to convey Mr TSE's concerns to HA.

14. The Deputy Chairman commented that the figures set out in the Annex to the Administration's paper did not fully reflect the actual situation of the use of agency workers by B/Ds, since these figures did not include the T-contract and service bureau staff.

15. DGG informed members that among the 972 agency workers as provided in the Annex to the Administration's paper, about 130 were sourced from service contracts lasting for more than 15 months. Most of them were sourced from "term contracts" under which agency workers were supplied by the employment agencies only as and when required by the procuring B/Ds. The employment agencies might not deploy the same group of agency workers to the procuring B/Ds every time.

16. Mr TANG Ka-piu pointed out that although the total number of agency workers had been reducing over the past few years, some B/Ds, namely the Department of Health ("DH") in particular, still engaged quite a large number of agency workers. He enquired whether CSB had examined the reason for that and the types of work performed by the agency workers working in DH.

17. DGG informed members that as at 30 September 2013, there were 168 agency workers working in DH. Among them, 120 provided workman-type ancillary service in DH's clinics. The relevant service contracts already ended in early 2014 upon the outsourcing of the non-core cleaning and menial services in DH's clinics. He further said that in accordance with the result of a review on the mode of service delivery of support services in DH's clinics, the core workman-type services would continue to be provided by civil servants, whereas non-core services would be outsourced.

18. Mr TANG Ka-piu expressed regret that the Administration had resorted to outsourcing of services to reduce the number of agency workers. The Deputy Chairman also expressed disappointment over the outsourcing arrangement.

19. In response, SCS advised that the number of agency workers had decreased over the past years due to various reasons, including the outsourcing of services, the completion of time-limited contracts and filling of civil service or non-civil service contract ("NCSC") vacancies.

Wage level and fringe benefits of agency workers

20. In response to Mr KWOK Wai-keung's enquiry on the wage level of agency workers, SCS replied that as a minimum, government contractors were required to pay agency workers either the wages calculated at the prevailing statutory minimum wage ("SMW") rate plus one rest day for every period of seven days, or the relevant average monthly wages as published in the Census & Statistics Quarterly Report of Wage and Payroll Statistics for December 2010 ("the C&S Report"), whichever was the higher. He further explained that after the introduction of SMW on 1 May 2011, the prevailing SMW rate was used as one of the benchmarks to determine the minimum wage level of agency workers in addition to the rates published in the C&S Report. The reason for maintaining the rates as published in the C&S Report in the guidelines was that the salary rates of some selected industry sections published in the report were still higher than the prevailing SMW rates. This arrangement ensured that no agency workers employed in

Government service contracts would be worse off upon the implementation of SMW.

21. Mr KWOK Wai-keung opined that same as civil servants, agency workers also provided services to the public. He urged the Administration to provide civil service fringe benefits to these workers despite they were engaged by B/Ds on a temporary bases.

22. SCS explained that employment agencies, as employers of agency workers, had the obligations under the Employment Ordinance and other relevant labour laws to provide suitable employment benefits to their employees. It would not be appropriate for the Government, as the service user, to provide employment benefits to agency workers who were not Government employees. He added that for agency workers sourced under term contracts, the employment agencies might arrange the agency workers to work not only for the procuring B/Ds but also other service users.

23. Mr KWOK Wai-keung was not convinced of the Administration's explanations. He remained of the view that the Administration should provide civil service fringe benefits to agency workers and NCSC staff.

24. Mr KWOK Wai-keung and the Deputy Chairman enquired whether the Administration would consider the terms of employment offered by the employment agencies to their employees in the selection of agencies for service contracts. SCS responded that the Administration had put in place a stringent mechanism to monitor the proper use of agency workers. As different employment agencies might offer different terms of employment to their employees having regard to their own circumstances, it would not be appropriate for the Administration to impose further restrictions in this regard.

(The Chairman left the meeting at this juncture and the Deputy Chairman took over the chair.)

V. Implementation of paternity leave in the Government and Government-funded public bodies

LC Paper No. CB(4)661/13-14(05) -- Administration's paper on implementation of paternity leave in the Government and Government-funded

public bodies

LC Paper No. CB(4)661/13-14(06) -- Paper on implementation of paternity leave in the Government and Government-funded public bodies prepared by the Legislative Council Secretariat (updated background brief)

25. At the invitation of the Deputy Chairman, SCS briefed members on the salient points in the Administration's paper on the implementation of paternity leave in the Government. The Assistant Commissioner (Labour Relations) ("AC") said that at the request of the Panel, the Labour Department ("LD") conducted a survey in early 2014 to collect information from 33 Government-funded public bodies regarding their practices on the provision of paternity leave to their employees. He briefed members on the findings of the survey.

26. Mr LEUNG Che-cheung appreciated the Administration's efforts in taking the lead to provide paternity leave to its employees. In order to build a family-based harmonious community, he asked whether the Administration would put in extra effort to promote such a good measure to other organisations.

27. AC responded that LD had been undertaking promotional efforts to encourage organisations of different sizes to adopt various family-friendly employment practices, including the granting of paternity leave to employees. For example, in tandem with the implementation of paternity leave for all Government employees in 2012, LD produced a publicity leaflet to promote the provision of paternity leave on a voluntary basis by both private and public organisations. For full implementation of paternity leave in Hong Kong, the Administration introduced the Employment (Amendment) Bill 2014 into the Legislative Council in March 2014. Upon the enactment and coming into effect of the proposed legislation, all eligible employees in Hong Kong would be entitled to statutory paternity leave.

28. Mr KWOK Wai-keung noted that some of the Government-funded public bodies that had responded to the survey provided paternity leave only to married employees, whereas the

Government would consider granting paternity leave to eligible employees on the occasion of childbirth outside marriage on a case-by-case basis. Mr KWOK enquired whether the Administration would align the arrangements for granting paternity leave in respect of childbirth outside marriage in the Government with those of Government-funded public bodies.

29. SCS advised that at the moment Government-funded public bodies had the autonomy to determine the terms and conditions of employment for their staff having regard to their own operation. However, the proposed legislation covered various implementation issues, including the arrangement for granting paternity leave for childbirth outside marriage. AC supplemented that it was proposed in the relevant bill that paternity leave of up to three days would be granted to the male employee concerned irrespective of whether or not his newborn baby was born within marriage, provided that relevant eligibility criteria were met by the employee concerned.

30. Noting from the Administration's paper that there were no significant staffing and financial implications incurred for the provision of paternity leave to Government employees, Mr TANG Ka-piu suggested that the Administration should convey this positive message to other employers in Hong Kong and encourage them to consider providing paternity leave to their employees. Expressing the same view, Mr KWOK Wai-keung requested the Administration to provide information on the cost implications of the implementation of paternity leave in the Government and Government-funded public bodies.

31. SCS explained that being the biggest employer in Hong Kong, the Government had greater flexibility in staff deployment and was able to absorb the manpower implications arising from the provision of paternity leave without incurring additional resources. The experience of the Government might not be a useful reference to all private sector organisations, especially companies of a smaller size. Regarding the cost implications of the proposed legislation to the community as a whole, AC advised that the cost of providing three days' paternity leave to the estimated number of 46 500 male employees with babies born in Hong Kong in a year was estimated to be about \$140 million, which amounted to about 0.02 % of the total wage bill.

32. Mr TANG Ka-piu suggested disclosing the identities of the 20 Government-funded public bodies which provided paternity leave to their employees in the survey to give recognition to their good practices.

AC responded that it was mentioned in the questionnaire that the identities of the respondents would not be disclosed.

33. Mr TAM Yiu-chung enquired about the practices of the private sector on the provision of paternity leave to their employees. AC informed members that a questionnaire survey was conducted by LD in 2012 on 1 580 member establishments of the 18 Human Resources Managers Clubs under LD to collect such information. Among the 576 respondents, a majority (81%) offered paternity leave of one to three days to their male employees, and the average duration was three days. It was also revealed in the survey that companies of a larger employment size were more likely to provide paternity leave to their male employees than companies of a smaller employment size.

34. Mr TANG Ka-piu enquired whether LD would conduct other surveys on the adoption of other family-friendly employment practices by Government-funded public bodies. AC replied that LD would conduct surveys to monitor the implementation of family-friendly employment practices in the labour market as a whole.

35. Quoting the examples of Sweden and the United Kingdom which respectively offered 10 days' paternity leave and 14 days' paternity leave to eligible male employees, the Deputy Chairman asked if the Administration would consider extending the duration of paternity leave provided to Government employees. SCS responded that the Administration had not received such request from its employees. Taking into account the resource and staffing implications involved, a period of five working days of paid paternity leave was considered appropriate.

36. The Deputy Chairman suggested that flexibility should be granted to couples who were both working in the Government on the utilization of maternity and paternity leave, e.g. the husband might take additional days of paternity leave to be offset by untaken days of maternity leave of his wife. SCS said that each employment contract offered to a Government employee was deemed to be separate and independent. Any untaken maternity and paternity leave could not be transferred among husbands and wives.

37. In response to Mr KWOK Wai-keung 's enquiry, SCS advised that over the past years, all applications for paternity leave from Government employees had been approved.

VI. Any other business

38. There being no other business, the meeting ended at 11:50am

Council Business Division 4
Legislative Council Secretariat
17 July 2014